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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/639,442	08/13/2003	Benad Goldwasser	A-9430	5756

20741 7590 01/14/2008  
HOFFMAN WASSON & GITLER, P.C  
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ARLINGTON, VA 22202-3843

EXAMINER
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HOEKSTRA, JEFFREY GERBEN

ART UNIT	PAPER NUMBER
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3736

MAIL DATE	DELIVERY MODE
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01/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/639,442	<b>Applicant(s)</b> GOLDWASSER, BENAD	
	<b>Examiner</b> Jeffrey G. Hoekstra	<b>Art Unit</b> 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/06/2007 and 09/11/2007</u> .                               | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/31/2007 has been entered.

### ***Notice of Amendment***

2. In response to the amendment filed on 10/31/2007, amended claim(s) 1, 11, and 16 is/are acknowledged. The current rejections of the claim(s) 1-16 is/are *withdrawn*. The following new and reiterated grounds of rejection are set forth:

### ***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on 08/06/2007 and 09/11/2007 is acknowledged. The submission is in compliance with the provisions of 37 CFR 1.97 and 1.98. Accordingly, the examiner is considering the information disclosure statements.

### ***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-7 and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choy (US 3,895,637) in view of Long et al. (US 2003/0153866 A1, hereinafter Long).

6. For claims 1-16, Choy discloses the claimed gastrointestinal apparatus (10) and method of use thereof, comprising:

- a guidewire (17) configured for introduction through a rectum of a subject having a distal stop (32);
- a gastrointestinal tool (18) having a chamfer and a bore (as best seen in Figures 1-4) attached to said guidewire and said gastrointestinal tool comprising a catheter (column 1 lines 5-10) having a lumen for introduction of medical instruments and fluids (column 1 lines 10-16 and 48-54) or an image viewing device (column 1 lines 10-16); and
- an inflatable device or sleeve (19) operably equipped for inflation via a channel (16) and configured to pull said guidewire away from said rectum and through a colon of a subject (column 1 lines 48-54).

7. Choy discloses the claimed gastrointestinal apparatus and methods of use thereof except for expressly disclosing that after the guidewire is pulled by the inflatable device it follows that the gastrointestinal tool slides relative to said guidewire. Long teaches a gastrointestinal apparatus and methods of use thereof wherein after a guidewire (540) is pulled by a pulling device (500) it follows that a gastrointestinal tool (524) slides over and relative to said guidewire (as best seen in Figure 21) (paragraphs 46 and 47). All the claimed elements were known in the prior art and one skilled in the

art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. All of the component parts are known in Choy and Long. The only difference is the combination of the component parts into a single device. Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the components as taught by Choy with the components as taught by Long to achieve the predictable results increasing the efficacy of a gastrointestinal traversing apparatus to treat a patient by configuring it with a variety of service, therapeutic, and/or diagnostic devices.

8. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choy in view of Long and in further view of DeMarco (US 5,353,807). Choy in view of Long discloses the claimed gastrointestinal apparatus and methods of use thereof except for expressly disclosing the diagnostic or therapeutic tool comprising a cutting, sampling, and/or magnetic device. DeMarco teaches a gastrointestinal apparatus comprising a catheter with cutting, sampling, and magnetic devices (column 1 lines 5-53). All of the component parts are known in Choy in view of Long and DeMarco. The only difference is the combination of the component parts into a single device. Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the components as taught by Choy in view of Long with the components as taught by DeMarco to achieve the predictable results increasing the efficacy of a gastrointestinal traversing apparatus to treat a patient by configuring it with a variety of service, therapeutic, and/or diagnostic devices.

***Response to Amendment***

9. The affidavit under 37 CFR 1.132 filed 10/31/2007 is sufficient to overcome the potential rejection of claims 1-16 based upon 35 USC 102(e) under Gross et al. (WO 2004/010858 A2), specifically pages 10-11, figure 17, and claims 24-25.

***Response to Arguments***

10. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey G. Hoekstra whose telephone number is (571)272-7232. The examiner can normally be reached on Monday through Friday, 8:00 a.m. to 5:00 p.m. EST.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max F. Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/J.H./  
Jeff Hoekstra  
Examiner, Art Unit 3736



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